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Supreme Court, U.S.
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No.

IN THE

SUPREME COURT OF THE UNITED STATES

IN RE:

DONALD O. PINKSTON,

Petitioner.

ON PETITION FOR WRIT OF CERTIORARI TO
THE SUPREME COURT OF LOUISIANA

PETITION FOR WRIT OF CERTIORARI

WILLIAM A. PORTEOUS, III
PORTEOUS, HAINKEL
AND JOHNSON, L.L.P.
704 Carondelet Street
New Orleans, Louisiana 70130
(504) 581-3838

Attorney for Petitioner.

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QUESTIONS PRESENTED

I. Must the Louisiana Attorney Disciplinary Rules and Procedures which cover the disbarring of attorneys comply with both procedural and substantive due process?

   1. Are the notice requirements of procedural due process infringed by application of permanent disbarment and foreclosure of employment and contractual relationship with lawyers rules where permanent disbarment and employment preclusion were not a penalty when Petitioner wrongfully violated "the most fundamental duty of an officer of the court" by making false statements to a judge and concealing evidence from the court which should have been revealed and injuring clients through neglect of legal matters, failure to account and to return unearned legal fees?

   2. Does "fundamental fairness" and "fair warning" require that the punishment of permanent disbarment and employment preclusion be known at the time of wrongful conduct?

II. May Louisiana's new Supreme Court Rules providing for a penalty of permanent disbarment and employment preclusion be applied retroactively without violating the constitutional prohibition against state *ex post facto* laws?

LIST OF PARTIES

Counsel of record for Petitioner certifies that the following are parties and counsel who have an interest in the outcome of this case.

Donald O. Pinkston, formerly an attorney at law of New Orleans, Louisiana.

The Supreme Court of Louisiana, the legal entity having plenary power over membership in the Bar of Louisiana;

The Louisiana Attorney Disciplinary Board, a statewide agency established by the Supreme Court of Louisiana to administer the lawyer discipline and disability system;

Charles P. Plattsmier, Chief Disciplinary Counsel, Louisiana Attorney Disciplinary Board, Baton Rouge, Louisiana, counsel with prosecutorial authority in this cause;

William A. Porteous, III, of New Orleans, Louisiana, Counsel for Petitioner.

RELATED PROCEEDING

A Petition for Writ of Certiorari has been filed in this Court by Petitioners, Laudumiey and Mann, No. 03-460. That petition involves some of the due process issues asserted herein and the *ex post facto* claim. On December 1, 2003, the Court denied the Petition sought by Laudumiey and Mann.

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PETITION FOR WRIT OF CERTIORARI

Donald O. Pinkston, Petitioner, hereby petitions the Court to issue a writ of certiorari to review the judgment and opinion of the Supreme Court of Louisiana in Attorney Disciplinary Proceedings wherein Petitioner was permanently disbarred and permanently enjoined from employment by or contractual relationships with any Louisiana lawyer. After application for a rehearing, the final decree of the Supreme Court of Louisiana was entered September 5, 2003.

OPINIONS BELOW

The opinion of the Supreme Court of Louisiana, which is reproduced in Appendix D commencing at page 27a, is officially reported at 2002-B-3251, 2002-B-3252 (La. 5/20/03), 852 So.2d 966, rehearing denied.

The opinion denying a rehearing by the Supreme Court of Louisiana is reproduced in Appendix A and is officially reported at 2002-B-3251, 2002-B-3252 (La. 9/5/-03). (App. A, p. 1a).

JURISDICTIONAL GROUNDS

The decision of the Supreme Court of Louisiana was entered on May 20, 2003 (App. D, p. 27a). Petitioner applied for a rehearing and that rehearing was denied in an opinion of the Louisiana Supreme Court dated September 5, 2003 (App. A, p. 1a). This court has jurisdiction to review the decision of the Supreme Court of Louisiana on writ of certiorari pursuant to 28 U.S.C. Section 1257.

STATUTORY PROVISIONS INVOLVED

U.S. Const. art. I, Sec. 10, Clause 1, which states in pertinent part that "No state shall . . . pass any . . . *ex post facto* law."

U.S. Const. amend. XIV, Sec. 1, which states in pertinent part that "No State shall . . . deprive any person of life, liberty, or property, without due process of law."

Louisiana Supreme Court Rule XIX, relative to Lawyer Discipline after August 1, 2001 (App. F, p. 47a).

Louisiana Rules of Professional Conduct 5.5, Effective July 1, 2002. (App. I, p. 56a).

STATEMENT OF THE CASE

Petitioner, a black, criminal defense attorney, was found to have engaged in professional misconduct during the years 1995, 1996, 1997 and 1998. Petitioner's wrongful conduct is outlined in Appendix D, pp. 28a-34a. The most serious violation of Petitioner involved making false statements to a judge and concealing from a judge evidence which should have been revealed. (App. D, pp. 28a-30a). This conduct resulted in the filing of formal charges against Petitioner in April 1999. (App. D, p. 34a). Petitioner was also charged with injuring his clients through neglect of legal matters, failure to account and failure to return unearned legal fees with formal charges being brought in May 2001 as to these matters. (App. D, p. 34a).

Prior to August 1, 2001, the Louisiana Supreme Court allowed disbarred lawyers to apply for readmission to the Bar after being disbarred for five years (App. E, Section 24, pp. 45a-46a). Subsequent to August 1, 2001 the

Louisiana Supreme Court embraced two kinds of disbarment: disbarment and permanent disbarment. (App. F with Commentary, pp. 47a-52a). The Supreme Court of Louisiana issued Guidelines indicating what conduct it believed might warrant Permanent Disbarment. (App. F, pp. 51, 52). All of these changes were effective August 1, 2001.

Prior to July 1, 2002, a disbarred lawyer in Louisiana might work as a paralegal, office administrator, legal researcher or clerk. Many disbarred lawyers did so. There was no prohibition against a disbarred lawyer working in some capacity with lawyers. On July 1, 2002, the Supreme Court of Louisiana changed Rule 5.5 of the Louisiana Rules of Professional Conduct to preclude a lawyer from engaging a disbarred lawyer in any capacity. (Compare Appendices H and I on the subject of Unauthorized Praceice of Law). (App. 55a and 56a).

The result is that since August 1, 2001 a lawyer who has been permanently disbarred has no option, as formerly, to apply for readmission after 5 years of disbarment. Since July 1, 2002, any disbarred Louisiana lawyer is foreclosed from having any kind of engagement with a Louisiana lawyer. The result is professional death. Formerly a lawyer who had been disbarred might seek readmission and might work for or contract with another lawyer during his time of disbarment.

At the time charges were brought against Petitioner Pinkston there was no Permanent Disbarment Rule and Professional Employment Preclusion Rule. Throughout the proceedings examining Petitioner's conduct, the Disciplinary Counsel never sought "Permanent Disbarment;" the only thing mentioned was "Disbarment."

Louisiana employs a three tiered system of investigation and punishment of wrongful conduct. There is a hearing before a fact finding body known as a Hearing Committee. This is followed by an intermediate appellate review before a panel of the Louisiana Disciplinary Board. Final review is before the Supreme Court which is the ultimate fact finder and has original jurisdiction in matters of Bar discipline. (App. D, p. 39a). The Louisiana Supreme Court accords facts found by the bodies below a respect through the manifest error rule. (App. D, p. 39a).

The first time Permanent Disbarment was mentioned in Petitioner's case was in oral argument in the Supreme Court of Louisiana which occurred between April 4, 2003 and the permanent disbarment decision of May 20, 2003. (App. B, p. 7a, App. C, pp. 16a-17a).

Until final argument in the Louisiana Supreme Court in April 2003, no permanent disbarment had been suggested. Louisiana Disciplinary Counsel had filed charges seeking disbarment and after amendment of the Disciplinary Rules in 2001 never amended the relief sought to embrace permanent disbarment. In addition to the charges, Disciplinary Counsel wrote at least seven briefs in the matter and never sought permanent disbarment. (App. B, pp. 4a-7a). No hearing committee or Disciplinary Board recommended permanent disbarment as a sanction. (App. B, p. 6a and App. D, pp. 35a-38a).

The first written mention of permanent disbarment as a sanction for Petitioner's conduct was in the opinion of the Louisiana Supreme Court of May 20, 2003.

Petitioner sought a rehearing in the Supreme Court of Louisiana of its May 20, 2003 decision alleging violations of due process of law and the *ex post facto* prohibition by virtue of applying the permanent disbarment

rule to Petitioner when his actions had occurred before the permanent disbarment sanction and that punishment had never been sought in any proceedings prior to oral argument in the Supreme Court of Louisiana just prior to the May 2003 decision of that court (App. B, p. 7a).

The Supreme Court of Louisiana denied rehearing and indicated that the imposition of the permanent disbarment rules was procedural and not substantive and therefore was not violative of due process or *ex post facto* prohibitions. (App. A, pp. 1a-2a).

Following the denial of a rehearing on September 5, 2003, Disciplinary Counsel advised Petitioner that the Supreme Court had issued an order of July 1, 2002 amending the Rules of Professional Conduct prohibiting any kind of legal employment or engagement of disbarred lawyers by Louisiana lawyers. (App. G, pp. 53a-54a and App. I, p. 56a).

From the decision of the Supreme Court of Louisiana imposing permanent disbarment upon Petitioner and the prohibition of any allied legal employment of Petitioner, Petitioner brings this application for a writ of certiorari to the Court.

ARGUMENT

REASONS FOR GRANTING THE WRIT

Lawyer discipline is on the ascendancy in the United States. The plenary power of courts to control those who may appear before them must accommodate and respect the constitutional rights of lawyers subject to discipline. Clearly, the lawyer is entitled to procedural due process. Where the right to practice a profession is at issue, more than procedural due processes is required.

Public perception of the lawyer as motivated by unprincipled greed without any anchor in or dedication to helping others in an ethical way has led the Bar and the supreme courts of the states to vigorous prosecution of lawyer wrongdoing. This movement of the last decade in Louisiana has taken the form of vigorous enforcement of the Rules of Professional Conduct by zealous prosecution and harsh judgment in the Supreme Court of Louisiana. Petitioner is a Louisiana recently permanently disbarred lawyer.

As part of its effort to improve the Bar, the Louisiana Supreme Court also enjoined other lawyers from employing or contracting with disbarred lawyers. (App. I, p. 56a). Thus any use of his knowledge or skills is now foreclosed to a disbarred lawyer.

Due process, substantive and procedural, has always protected the citizen from unfair exercise of power by government. Courts are the great protector of the rights of citizens in their contests with governmental authority. The greatest malfactors are entitled to the protection of substantive and procedural due process and the prohibition against *ex post facto* laws. Where the lawyer is involved courts should be vigilant in the protection of the lawyer-citizen in his contest with those who control membership in the legal profession. Courts in regulating lawyers subject to their power, no less than all government, should be controlled by substantive and procedural due process.

This case involves a punishment of misconduct by a lawyer. After the time of the misconduct and commencement of the prosecution, Louisiana amended its disciplinary rules to provide for two categories of disbarred lawyers. The two classifications of disbarred lawyers are: the disbarred and the permanently disbarred. The former could and still can apply for readmission as pre-

viously; the latter were enjoined from ever seeking readmission; this was new. (App. F, pp. 47a-52a). (The sanction of permanent disbarment was added to Rule XIX, Section 10, by order of the Louisiana Supreme Court dated July 19, 2001, effective August 1, 2001. (App. F, p. 52a).

The Louisiana Supreme Court characterizes its rule changes as procedural. (App. A, p. 2a). This cannot be correct. Prior to August 2001, a lawyer could reapply for admission to the Bar after five years. Prior to July 2002, a disbarred lawyer could work as a paralegal or an administrator. The rule changes are substantive from the viewpoint of the lawyer who has lost the privilege of reapplying for admisson to the Bar and cannot use his skill in any remunerative capactiy. The matter is analogous to a situation where a convicted criminal sees the privilege of applying for a pardon or parole abolished.

The new Louisiana disbarment rules implicate due process and *ex post facto* issues which are of substantial importance to the public and the Bar.

In the broadest thinking, this cause involves the plenary power of a court to control its Bar as opposed to the rights of citizen lawyers to practice a profession with the protection of full due process of law. This is important to the courts and the Bar.

PART I

Question I Presented, Due Process

DISCIPLINARY PROCEEDINGS AGAINST LAWYERS SHOULD ACCORD LAWYERS UNDER THREAT OF DISBARMENT FULL PROCEDURAL AND SUBSTANTIVE DUE PROCESS.

This Court visited the lawyer discipline due process issue in 1968 in *In re: Ruffalo,* 390 U.S. 544 (1968) holding that a lawyer involved in disciplinary proceedings was enmeshed in matters which were "quasi criminal" and therefore entitled to procedural due process, notice and an opportunity to be heard. In 1982, the Court recognized that a lawyer had a right to have constitutional issues heard in a disciplinary proceeding. *Middlesex County Ethics Committee v. Garden State Bar Ass'n.,* 457 U.S. 423 (1982).

This petition on behalf of a disbarred lawyer asks the Court to address the further questions of whether the lawyer involved in disciplinary proceedings is entitled to both substantive and procedural due process.

Permanent disbarment with employment preclusion is a kind of professional death sentence. Where the sanction is so high, the lawyer should know from the time of the offense forward what the possible sanction may be. *Lankford v. Idaho,* 500 U.S. 110 (1991). Not only must there be notice of the charges, but notice of the punishment as well, especially where a range of punishments might be at issue. "Elementary notions of fairness enshrined in our constitutional jurisprudence dictate that a person receive fair notice not only of the conduct that will subject him to punishment, but also of the severity of the penalty that a State may impose." *BMW of North America, Inc. v. Gore,* 517 U.S. 559, 574 (1996).

1. The Notice Requirement of Procedural Due Process Is Infringed by the Application of Louisiana's New Permanent Disbarment and Employment Preclusions Rules to Petitioner When Those Rules Were Not in Effect at the Time of Petitioner's Wrongful Conduct and Only in Final Argument to The Louisiana Supreme Court Was Permanent Disbarment First Mentioned.

The Court in *In re: Ruffalo, supra,* stated:

> Disbarment, designed to protect the public, is a punishment or penalty imposed on the lawyer. He is accordingly entitled to procedural due process, which includes fair notice of the charge. 390 U.S. at 550.

In *Ruffalo,* the Respondent was not provided with notice of the charge which led to his disbarment until after he and another witness had already testified at the disciplinary hearing. The Court found that this constituted a procedural due process violation.

If the sanction of employment preclusion and permanent disbarment is applied retroactively, the Petitioner is deprived of due process in that he did not have adequate notice of these potential sanctions at the time of his alleged offense.

The U.S. Supreme Court in *Ruffalo* held:

> [Lawyer disciplinary proceedings] are adversary proceedings of a quasi criminal nature. The charge must be known before the proceedings commence. They become a trap when, after they are underway, the charges are amended on the basis of testimony of the accused. He can then be given no opportunity to expunge the earlier statements and start afresh.

* * *

> This absence of fair notice as to the reach of the grievance procedure and the precise nature of the charges deprived petitioner of procedural due process. 390 U.S. at 551 [Citations omitted.]

Similarly, if the Petitioner, Pinkston, had notice of the reach of the grievance procedure at the time he acted wrongfully with respect to a court and to his clients, he might not have acted as he did. Punishment is a deterrent. Had Petitioner Pinkston known that the Guidelines (App. F, pp. 51a-52a) would be applied in his case he could have presented evidence relative to them. The Guidelines were not in existence at the time of his wrongful conduct and his earliest hearings. Petitioner was never notified that permanent disbarment would be a possible sanction until final argument. No permanent disbarment was ever sought until oral arguments in the Supreme Court of Louisiana. Mr. Pinkston and Mr. Ruffalo have much in common. After joining issue, they were both confronted with a changed landscape. In Mr. Pinkston's case, it came in final arguments in the Supreme Court with the suggestion for the first time of permanent disbarment.

Therefore, as a result of procedural due process considerations, the sanction of permanent disbarment and employment preclusion should only be applied prospectively and not retroactively to the time of the offense.

The new rules should not have been applied to offenses occurring and prosecutions commenced prior in time to the new rules.

2. Fundamental Fairness In A Proceeding Involving Liberty and Property Is Incorporated Within The Concept of Due Process of Law as Understood In This Nation And Dictates That The Punishment of Permanent Disbarment and Professional Employment Preclusion Be Known At The Time of the Offense So As To Satisfy "Fair Warning" As A Requirement of Substantive Due Process.

The United States through Article V and Amendment XIV of the Constitution is committed to requiring due process. Where a government not only terminates present employment but forecloses an entire occupational field, that action must comport with full due process of law. A citizen of this nation has a liberty and property interest in following a trade or occupation. *Conn v. Gabbert,* 526 U.S. 286, 291-92 (1999); *Application of Griffiths,* 413 U.S. 717, 722-27 (1973); *Board of Regents of State Colleges v. Roth,* 408 U.S. 564, 572 (1972); *Schware v. Board of Bar Examiners of New Mexico,* 353 U.S. 232 (1957); *Meyer v. Nebraska,* 262 U.S. 390, 399 (1923).

The Louisiana Rule change as to employment of a disbarred lawyer came long after Mr. Pinkston's offenses and prosecution. The Rule change about permanent disbarment likewise came after Mr. Pinkston's offenses and prosecution.

"Fair warning" is an essential rule in all matters that involve criminal conduct. *Dobbert v. Florida,* 432 U.S. 282, 297-98 (1977). Justice Cardozo thought that: "[T]he Fourteenth Amendment proscribed certain state procedures, not because proscription was spelled out in one of the Bill of Rights but because the matter offends some principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental." *Snyder v. Commonwealth of Massachu-*

setts, 291 U.S. 97, 105 (1934). Indeed, the idea of "fair warning" is "implicit in the concept of ordered 'liberty,' " *Palko v. Connecticut,* 302 U.S. 319, 325 (1937). Incorporation of fundamental ideas implicit in the concept of ordered liberty is an ongoing process.

Where liberty and property legally are protected, wrongful conduct and the penalty for wrongful conduct are twined in any rule or statute. This exists because of the requirement of a "fair warning." It is part of our concept of "ordered liberty." To denounce conduct and change the penalty after the conduct and then enforce the change is to abandon that concept of "ordered liberty," which is fundamental and protected by due process in this nation.

"Fair warning" embraces notice of punishment. *Lankford v. Idaho, supra; BMW of North America v. Gore, supra.* The proceedings herein were quasi-criminal and Petitioner is entitled to the protections of substantive and procedural due process of law protected in the Federal constitution. *In re: Ruffalo, supra; Application of Gault,* 387 U.S. 1, 33 (1967).

Heightened Due Process

Courts have always had plenary power over the Bar in matters of discipline. Never have the citizen's full constitutional protections against governmental action been part of Bar discipline. The accused lawyer has never had the protection of separation of powers, checks and balances and resort to an independent judiciary. His sole reliance has had to be the integrity of the judiciary with its inherent "self-restraint" in the exercise of judicial power. In these times of increased public and judicial

scrutiny of lawyer conduct, a heightened sense of due process substantive as well as procedural should protect the lawyer.

PART II

Question II Presented, *Ex Post Facto*

BECAUSE LAWYER DISCIPLINARY PROCEEDINGS ARE QUASI-CRIMINAL, THEY CANNOT INCREASE PUNISHMENT *EX POST FACTO* WITHOUT VIOLATING THE U.S. CONSTITUTION, ARTICLE I, § 10, CLAUSE 1.

"The focus of *ex post facto* inquiry is . . . whether any such change . . . increases the penalty by which a crime is punishable." *California Department of Corrections v. Morales,* 514 U.S. 499, 506 (1995); *Garner v. Jones,* 529 U.S. 244 (2000).

The Louisiana Supreme Court indicated that because it always had the power to disbar attorneys permanently, the change of the rule on five year application for readmission to a rule of permanent disbarment in certain egregious cases was a procedural change only. (App. A, p. 2a). This is a Frankfurter procedural/substantive or substantive/procedural conundrum. The conclusion remains that when Petitioner's actions occurred and opened him to the possibility of disbarment he would have been permitted to apply for readmission after five years disbarment with the Louisiana Supreme Court having discretion to allow readmission to the Bar. He could also have worked as a legal administrator or paralegal or law clerk. The fact that the Louisiana Supreme Court had the power does not alter the *ex post facto* issue. A legislature has the power to increase the punishment

for a crime at any time. The issue is retroactivity to the offense.

The language changes in the disbarment rule effective August 1, 2001 after Petitioner's offense and prosecution are set forth in the opinion of the Supreme Court of Louisiana. (App. D, p. 42a, fns. 7 and 8).

By abolishing the privilege of applying for readmission after five years, the disbarred Petitioner faces a change in the rules which reflects an increase in the penalty by which his crime is punished. Petitioner can never apply for readmission. When Petitioner was found to have wrongfully acted, if disbarred he could apply for readmission after five years. That is now foreclosed. At the time of his actions, Petitioner had not been warned by effective new rules that he might be permanently disbarred.

"Fair Warning" is the basis of the American commitment to the *ex post facto* prohibition. *Dobbert v. Florida*, 432 U.S. 282, 297-98 (1977). The commitment to a "fair warning" is rooted in Western and American political and legal thought, Story, *Commentaries on the Constitution of the United States*, Section 1367 (1833). Retroactivity was condemned by the *Corpus Juris* of Justinian and the canon law and is the root of the phrase "*Nulla Poena Sine Lege.*" Schwartz, *Commentaries on the Constitution of the United States*, Part III, Rights of the Person, Chapter 151, Section 392 (1968). Schwartz cites Radin, *Handbook of Roman Law*, 475 (1927), and 1 Blackstone, *Commentaries on the Law of England*, 46 (1765).

In *Federalist Papers, No. 44*, Madison declares that *ex post facto* laws "are contrary to the first principles of the social compact and in every principle of sound legislation." He declares that the prohibition is part of the "spirit"

and scope of our "fundamental charters." Prohibition of *ex post facto* laws was needed to erect "additional fences" against "dangers." Madison describes these fences as part of a constitutional barrier in favor of personal security and private rights. *Calder v. Bull,* 3 U.S. 386, 390, 3 Dall. 386 (1798), declared that *ex post facto* laws included laws which aggravated a crime and made it greater than it was when committed or changed the punishment and inflicted a greater punishment than the law annexed to the crime when committed.

Afterwards, in *Fletcher v. Peck,* 10 U.S. 87, 6 Cranch 87 (1810), it was held that *ex post facto* laws included those laws which rendered an act punishable in a manner in which it was not punishable when committed. See also, 1 Kent, *Commentaries on American Law,* 382 (1826). It can be seen from this thinking that the prohibition extends not only to making criminal, conduct which at the time it was conducted was not punishable, but also to increasing of punishment after the commission of the crime.

The Louisiana Supreme Court has many times set forth the rule that while lawyer disciplinary proceedings are primarily for the protection of the public, they are also punishment of the defaulting lawyer. *In re: Vaughan,* 2000-1892 (La. 10/27/00), 772 So.2d 87; *In re: Taylor,* 2000-2392 (La. 10/13/00), 770 So.2d 335; *In re: Estiverne,* 1999-0949 (La. 9/24/99), 741 So.2d 649; *In re: Ashy,* 1998-0662 (La. 12/1/98), 721 So.2d 859. Disciplinary proceedings involve punishment. All criminal laws exist for the protection of the public and part of the protection for the public is punishment of the offender. In this case, the amendment to Louisiana Supreme Court Rule XIX was passed after the date of Petitioner's offenses, it relates to the offenses and their

punishment and alters the situation of the accused Petitioner to his disadvantage. The permanently disbarred Petitioner may never apply for readmission or seek employment in a law office. That was not the rule when he committed his offenses. See also, *State v. Jordan,* 440 So.2d 716, 718 (La. 1983), rehearing denied (1987); *Weaver v. Graham,* 450 U.S. 24, 29 (1981).

Johnson v. United States, 529 U.S. 694 (2000) involved an *ex post facto* challenge to a federal statute which authorized a district court to impose an additional term of supervised release upon violation of the initial release conditions. The Court noted that the *ex post facto* law question is whether a party is made worse off by the application of the new law. In this case, it is clear that Pinkston, who lost the option of applying for readmission is "worse off". Petitioner is "worse off" even though his conduct occurred prior to August 1, 2001 when the Rule changed.

Lynce v. Mathis, 519 U.S. 433 (1997) involved a post conviction Florida statute which cancelled a prisoner's release credits which had been awarded to alleviate prison overcrowding. The Court held that this violated the *ex post facto* prohibition because it "must disadvantage the offender affected by it." *Id.* at 896, citing *Weaver v. Graham, supra.* Indeed, the Court relies upon the fundamental viability of *Calder v. Bull, supra.*

The right of Petitioner to seek readmission after five years is analogous to a prisoner seeking parole after serving a portion of his sentence. Changing the right to seek parole after serving a portion of the sentence offends *ex post facto* precepts. The prisoner is entitled to the benefit of the parole statute in effect at the time of his offense where parole is discretionary. In this case, Petitioner is like the prisoner seeking parole; he should be

allowed to come to the Supreme Court of Louisiana after five years and seek readmission and the court in its discretion might grant or deny the readmission application.

CONCLUSION

For the various reasons set forth above, this petition for writ of certiorari should be granted and/or the cause remanded to the Supreme Court of Louisiana with instructions.

Respectfully submitted,

WILLIAM A. PORTEOUS, III
PORTEOUS, HAINKEL
AND JOHNSON, L.L.P.
704 Carondelet Street
New Orleans, Louisiana 70130
(504) 581-3838
Fax: (504) 581-4069
Bar No. 10600

Attorney for Petitioner,
Donald O. Pinkston.

December 4, 2003